

NATION

FBI admits McVeigh error

Some evidence not provided to bomber's lawyers

By Alex Rodriguez
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TERRE HAUTE, Ind.—With Timothy McVeigh's scheduled execution for the Oklahoma City bombing six days away, the FBI acknowledged it mistakenly withheld boxes of documents from his defense team, a revelation that could prompt his lawyers to seek a stay.

The Justice Department does not believe the documents cast doubt on the guilt of McVeigh, Sean Connelly, special attorney to the attorney general, told McVeigh's lawyers in a letter dated Wednesday.

Still, Connelly said the documents, which include FBI interviews of witnesses from the early

stages of the investigation, should have been turned over to McVeigh's defense lawyers as they prepared for trial.

In 1997, McVeigh was convicted in the bombing that killed 168 people. He is scheduled to be put to death Wednesday.



McVeigh

FBI officials learned of the error while the bureau was amassing documents for archiving, Connelly said.

One of McVeigh's lawyers, Nathan Chambers, said McVeigh's attorneys are "considering all our options." He said he spoke with McVeigh but would not disclose what was said.

In December, McVeigh waived any further appeals, setting the stage for his execution.

One of McVeigh's lawyers dur-

ing the trial, Jeralyn Merritt, said Thursday night that she believes a stay would be granted if McVeigh decided to seek one.

"The late turning over of these documents the week before an execution is inexcusable," Merritt said. "His lawyers should be granted as much time as is necessary. The ultimate decision, however, is going to be McVeigh's, not the lawyers.'"

Merritt said McVeigh's lawyers could ask a trial judge to grant a stay of execution simply to give them more time to sift through the documents.

The Justice Department said 3,135 documents from 46 FBI offices were sent to McVeigh's lawyers.

If McVeigh decided to resume his appeals based on Thursday's development, he would have to persuade a federal appeals court that the documents amounted to new evidence, and that it was likely that a jury would find him not guilty, Merritt said.

Daniel Polsby, a George Mason University criminal law professor, said McVeigh has admitted his guilt.

"McVeigh has never contested that he did this," Polsby said. "If there were a guilt or innocence question, then there might be some serious re-examination, but McVeigh has admitted to doing this crime."

Connelly told McVeigh's lawyers he first learned of the new documents Tuesday. They were turned over to McVeigh's post-conviction legal team Thursday.

In his letter to McVeigh's lawyers, Connelly said the documents were generated by FBI field divisions outside Oklahoma City.

The discovery of the documents was made after an FBI archivist asked field divisions to send all bombing investigation materials to Oklahoma City.

Tribune news services contributed to this report.